

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO. 89-643-C - ORDER NO. 90-536 ✓
MAY 23, 1990

IN RE: Application of NCN Communications, Inc.)	ORDER GRANTING
for a Certificate of Public Convenience)	MOTION TO
and Necessity to Operate as a Reseller)	CEASE AND
of Intrastate Telecommunications Services)	DESIST

This matter comes before the Public Service Commission of South Carolina (the Commission) by way of an Application filed on behalf of NCN Communications, Inc. (NCN) for a Certificate of Public Convenience and Necessity to resell intrastate telecommunications services in the State of South Carolina. The Application was filed pursuant to S.C. Code Ann., §58-9-520 (1976 as amended) and the Commission's Rules and Regulations.

The matter was duly noticed and separate Petitions to Intervene were filed on behalf of Southern Bell Telephone and Telegraph Company (Southern Bell) and Steven W. Hamm, the Consumer Advocate for the State of South Carolina (the Consumer Advocate).

On May 17, 1990, at 10:30 A. M., a hearing was commenced in this matter. At the beginning of the hearing, counsel for NCN requested that a continuance of the hearing be granted due to the unavailability of Applicant's witness. Counsel indicated that NCN would be available to proceed with the hearing at any other time. The Commission granted the Motion for a Continuance. Counsel for

the Consumer Advocate then moved the Commission to order the Company to cease and desist its intrastate operations in South Carolina. This Motion was based on information available to the Consumer Advocate, as well as a Staff memo in the docket file which indicated that the Company was presently marketing its services on an intrastate basis in South Carolina. The Consumer Advocate contended that this violated S.C. Code Ann., §58-9-280 (1976) which requires the granting of a Certificate of Public Convenience and Necessity before the telephone system is authorized to operate on an intrastate basis in South Carolina.

The Commission has determined that there is evidence in the docket that would indicate that the Company is presently marketing its services in South Carolina for intrastate long distance service. Under S.C. Code Ann., §58-9-10 (1976) the term "telephone utility" includes "persons and corporations, their lessees, assignees, trustees, receivers or other successors in interest owning or operating in this State equipment or facilities for the transmission of intelligence by telephone for hire, including all things incident thereto and related to the operation of telephones". The marketing of telecommunication services would be included as incidental and related to the operations of telephones. Therefore, even though the Company does not own any telecommunication facilities but merely markets or resells the services through a facility based carrier's tariff, the act of marketing their services on an intrastate basis without first having a Certificate of Public Convenience and Necessity violates

the Commission's requirement that a Certificate of Public Convenience and Necessity must first be obtained. Therefore, the Commission hereby orders NCN Communications, Inc. to immediately cease its intrastate operations in South Carolina, including, but not limited to, the billing and marketing of its services on an intrastate basis.

IT IS SO ORDERED.

BY ORDER OF THE COMMISSION:



Chairman

ATTEST:


Executive Director

(SEAL)